

dietary uses by reason of its value as a source of the minerals, calcium, and phosphorus, and in the control of body weight, and its label failed to bear, as required by regulations, a statement of the minimum daily requirements for calcium and phosphorus supplied by such food when consumed in a specified quantity during a period of one day, and its label also failed to bear as required by regulations, the percent by weight of protein, fat, and available carbohydrates in such food.

DISPOSITION: 11-5-59. Default—delivered to a public institution.

## EGGS

26046. Incubator reject eggs. (Inj. No. 353.)

COMPLAINT FOR INJUNCTION FILED: 4-3-59, N. Dist. Ga., against Crawford Irvin, Mount Airy, Ga.

CHARGE: The complaint alleged that the defendant was engaged in the business of purchasing, receiving, candling, and packing incubator reject eggs, and was causing to be introduced and delivered for introduction into interstate commerce, such eggs which were adulterated under 402(a)(3) in that they contained decomposed egg material such as black rot, sour rot, mixed rot, and eggs ranging in other degrees of decomposition, and were otherwise unfit for food because they were incubator reject eggs.

The complaint alleged further that in purchasing, receiving, candling, and packing the incubator reject eggs the following method of operation was employed:

(a) the defendant would purchase incubator reject eggs from various hatcheries within and without the State of Georgia, such eggs being ostensibly fertile chicken eggs which had been incubated for at least 18 days at a constant temperature of approximately 99° F. without properly developing chickens;

(b) the defendant would arrange with the hatcheries to have the incubator reject eggs put into cases of 30-dozen capacity, and set aside to await pickup by the defendant's vehicle;

(c) the defendant would pick up the incubator reject eggs at the hatcheries, paying approximately \$2 per 30-dozen case, and then transport the eggs to the defendant's plant at Mount Airy, Ga.;

(d) upon receipt at the Mount Airy plant the incubator reject eggs containing black rots, sour rots, mixed rots, and eggs ranging in other degrees of decomposition were subjected to candling, the only operation performed at the Mount Airy plant, which candling would separate out some of the grossly decomposed incubator reject eggs; and

(e) the defendant would then cause to be introduced into interstate commerce such candled incubator reject eggs adulterated as described above from the Mount Airy plant for delivery to Guilford, Conn., and East Brunswick, N.J., without denaturing the eggs so as to preclude their use in human food products.

The complaint alleged also that the defendant had on hand at his Mount Airy plant stocks of incubator reject eggs which in the usual and ordinary course of business would be shipped in interstate commerce, and that such stocks constituted a menace to interstate commerce because they contained decomposed egg material and were otherwise unfit for food because they were incubator reject eggs.

**DISPOSITION:** On 4-23-59, the defendant having been given notice of a hearing and having failed to appear, the court entered a preliminary injunction against the defendant. On 6-10-59, the defendant having failed to answer and being in default, the court entered a decree of permanent injunction against the defendant, enjoining him from directly or indirectly causing to be introduced and delivered for introduction into interstate commerce:

(a) incubator reject eggs, unless and until such eggs are completely denatured so as to preclude their use in human food products;

(b) any of the stocks of incubator reject eggs on hand at the defendant's Mount Airy, Ga., plant or any incubator reject eggs elsewhere unless and until such eggs were completely denatured so as to preclude their use in human food products under the supervision of the Food and Drug Administration; and

(c) in the event the defendant should break out of the shell incubator reject eggs at the Mount Airy plant, or elsewhere, then the contents of such eggs prior to interstate movement should be completely denatured so as to preclude their use in human food products.

**26047. Frozen eggs.** (F.D.C. No. 42553. S. Nos. 32-195 P, 32-715/16 P.)

**QUANTITY:** 1,033 30-lb. cans at Brooklyn, N.Y.

**SHIPPED:** 8-23-58, from Nashville, Tenn., by Modern Egg Products, Inc.

**LABEL IN PART:** (Can) "Frozen Whole Eggs Packed for L. Rudolph & Co. \* \* \* 232 \* \* \* 2" or "Frozen Whole Eggs, 30 Lbs. Net Weight, Modern Egg Products, Nashville, Tenn. 226 Whole Eggs."

**LIBELED:** 12-15-58, E. Dist. N.Y.

**CHARGE:** 402(a) (3)—when shipped, contained decomposed eggs.

**DISPOSITION:** 6-8-59. Default—destruction.

**26048. Frozen egg product.** (F.D.C. No. 42269. S. No. 31-652 P.)

**QUANTITY:** 845 cans at Brooklyn, N.Y.

**SHIPPED:** 7-7-58, from Nashville, Tenn., by Modern Egg Co.

**LABEL IN PART:** "Vitabake 30 Lbs. Net Weight \* \* \* Whole Eggs, Egg Yolks, Sugar & Salt."

**LIBELED:** 11-6-58, E. Dist. N.Y.

**CHARGE:** 402(a) (3)—when shipped, contained decomposed eggs.

**DISPOSITION:** 6-8-59. Default—destruction.

**26049. Frozen eggs.** (F.D.C. No. 43103. S. Nos. 9-023 P, 9-273 P.)

**INFORMATION FILED:** 10-13-59, N. Dist. Ohio, against the Wooster Cooperative Poultry Association, a corporation, Wooster and Millersburg, Ohio.

**SHIPPED:** Between 1-10-58 and 7-21-58, from Ohio to Pennsylvania.

**LABEL IN PART:** (Can) "Frozen Whole Eggs 30 Lbs. Net Wt. \* \* \* Packed By Wooster Coop. Plty. Ass'n. 14 Wooster, Ohio."

**CHARGE:** 402(a) (3)—contained decomposed eggs.

**PLEA:** Guilty.

**DISPOSITION:** 10-30-59. \$300 fine.

**26050. Frozen eggs.** (F.D.C. No. 43049. S. Nos. 9-666/7 P, 9-743 P, 9-752 P.)

**INFORMATION FILED:** 9-25-59, N. Dist. Ohio, against Anthony A. Bush, t/a Ashtabula Poultry Co., Ashtabula, Ohio.